

0 u 7-1-63

CENTRAL INTELLIGENCE AGENCY ACT AMENDMENTS OF 1963

SECTIONAL ANALYSIS AND EXPLANATION

(NOTE: Proposed legislation by section is set forth on the left with the existing Central Intelligence Agency statutory provision, if any, on the right.)

Proposed Legislation

Existing Legislation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Act Amendments of 1963."

Section 2

The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403(a) et seq.), is further amended as follows:

(1) Amend section 3 by deletion of subsections (a) and (b) and substitute therefor:

"(a) In the performance of its functions, the Agency is authorized to exercise the authorities contained in sections 2301; 2302(2) and (3); 2303(b) and (c); 2304 (a)(1), (2), (3), (4), (5), (6), (10), (12), (15), and (17); 2305; 2306; 2307; 2312; and 2383 of title 10, United States Code."

"(b) In the exercise of the authorities granted in subsection (a) of this section, the term "Agency head" shall mean the Director and the Deputy Director."

Sec. 3. (a) In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2(c)(1), (2), (3), (4), (5), (6), (10), (12), (15), (17), and sections 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, Eightieth Congress, second session).

(b) In the exercise of the authorities granted in subsection (a) of this section, the term "Agency head" shall mean the Director, the Deputy Director, or the Executive of the Agency.

Proposed Legislation

(2) Amend section 3(d) by deletion of the wording "section 2(c) and section 5(a) of the Armed Services Procurement Act of 1947" from the first sentence and substitute therefor, "section 2304(a) and section 2307 of title 10, United States Code." Further amend section 3(d) by deletion of the wording "section 2(c), by section 4 or by section 5(a) of the Armed Services Procurement Act of 1947" from the second sentence and substitute therefor, "section 2304(a), by section 2306 or by section 2307 of title 10, United States Code."

Existing Legislation

(d) The power of the Agency head to make the determinations or decisions specified in paragraphs (12) and (15) of section 2(c) and section 5(a) of the Armed Services Procurement Act of 1947 shall not be delegable. Each determination or decision required by paragraphs (12) and (15) of section 2(c), by section 4 or by section 5(a) of the Armed Services Procurement Act of 1947, shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination.

Explanation: These sections update procurement authority references and terms used in the Central Intelligence Agency Act of 1949. The Armed Services Procurement Act of 1947 has been incorporated into title 10, "Armed Forces," U. S. Code. The term "Executive" as set forth in 3(b) of existing legislation is no longer used to designate a senior Agency official and consequently has been eliminated.

(3) Amend section 4 by adding the following new paragraphs (1)(g) and (1)(H), and (8), and further amend section 4 by deletion of the words "Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, shall--" and substitute therefor, "Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned abroad to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, may--."

[Section (4) continued]

Proposed Legislation

Existing Legislation

"(1)(G) Pay the travel expenses of officers and employees of the Agency and members of their families, while serving at posts specifically designated by the Director for purposes of this paragraph, for rest and recuperation to other locations abroad having different environmental conditions than those at the post at which such officers and employees are serving, provided that such travel expenses shall be limited to the cost for each officer or employee and members of his family of one round trip during any continuous two-year tour unbroken by home leave and two round trips during any continuous three-year tour unbroken by home leave;"

None

Explanation: This section provides for travel of the employee and his dependents away from specifically designated posts for rest and recuperation in other locations abroad having more favorable environmental conditions. Such travel is necessary to the health and welfare of the individual and his family as well as the maintenance of a high standard of work productivity at the post of assignment. Similar authority has been provided by section 911(9) of the Foreign Service Act for Foreign Service personnel serving under comparable conditions.

"(1)(H) Pay the travel expenses of members of the family accompanying, preceding, or following an officer or employee if, while he is enroute to his post of assignment, he is ordered temporarily for orientation and training or is given other temporary duty;"

None

Explanation: This section provides for payment of the cost of travel of dependents to necessary temporary duty points enroute from one post of assignment to another. Such authority is necessary for consultation and retraining between assignments and is identical with section 911(10) of the Foreign Service Act.

"(8) Provide appropriate orientation and language training to members of family of officers and employees of the Agency in anticipation of the assignment abroad of such officers and employees, or while abroad."

None

Explanation: This section provides for orientation and language training for members of Agency families in regard to assignment abroad. It is substantively the same authority provided in section 701 of the Foreign Service Act.

Proposed Legislation

Existing Legislation

(4) Amend section 4(3)(A) to read as follows:

"(3)(A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence authorized in section 203(f) of the Annual and Sick Leave Act of 1951, as amended, each officer or employee of the Agency who was a resident of the United States (as described above) at the time of employment, upon completion of three years' continuous service abroad or as soon as possible thereafter and may so order after completion of eighteen months such service without regard to the limitation contained in section 203(f) of the Annual and Sick Leave Act of 1951, as amended."

Explanation: This section realigns existing Agency authority for home leave travel to bring it in accord with the authority set forth in section 933(a) of the Foreign Service Act. This section also authorizes home leave travel after completion of 18 months at selected hardship or notoriously unhealthful posts.

(5) Amend section 4(5) by striking out subsections (A) and (C) and inserting in lieu thereof the following new paragraphs (A) and (C):

"(A) In the event an officer or employee of the Agency or one of his dependents, requires medical care, for illness or injury not the result of vicious habits, intemperance, or misconduct, while on assignment abroad in a locality where there is no qualified person or facility to provide such care, pay the travel expenses of such officer, employee, or dependent by whatever means deemed appropriate, by the Agency, including the furnishing of transportation, and without regard to the Standardized Government Travel Regulations and section 10 of the Act

Sec. 4. (3)(A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter."

Sec. 4. (5)(A) In the event of illness or injury requiring the hospitalization of an officer or full time employee of the Agency, not the result of vicious habits, intemperance, or misconduct on his part, incurred while on assignment abroad, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee by whatever means he shall deem appropriate and without regard to the Standardized Government Travel Regulations and section 10 of the Act

Proposed Legislation

[Sec. 4(5)(A) continued]

of March 3, 1933, as amended (60 Stat. 808; 5 U.S.C. 73b), to the nearest locality where suitable medical care can be obtained and on his recovery pay for the travel expenses of his return to his post of duty. If any such person is too ill to travel unattended, or in the case of a dependent too young to travel alone, the Agency may also pay the round-trip travel expenses of an attendant or attendants;"

Explanation: This section extends to the dependents of Agency officers and employees stationed abroad the present provisions of law permitting the Director to pay expenses of transportation and authorizes such expenses to the nearest locality where suitable medical care can be obtained. Similar authority is provided at section 942 of the Foreign Service Act for dependents of Foreign Service personnel.

"(C)(1) In the event of illness or injury requiring hospitalization or similar treatment of an officer or employee of the Agency who is assigned abroad, not the result of vicious habits, intemperance, or misconduct on his part, pay for the cost of treatment of such illness or injury;

"(11) In the event a dependent of an officer or employee of the Agency who is assigned abroad, incurs an illness or injury while such dependent is located abroad, which requires hospitalization or similar treatment, and which is not the result of vicious habits, intemperance, or misconduct on his part, pay for that portion of the cost of treatment of each such illness or injury that exceeds \$35 up to a maximum limitation of one hundred and twenty days of treatment for each such illness or injury, except that such maximum limitation shall not apply whenever the Agency, on the basis of professional medical advice, shall determine that such illness or injury clearly is caused by the fact that such dependent

Existing Legislation

[Sec. 4(5)(A) continued]

of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 73b), to the nearest locality where a suitable hospital or clinic exists and on his recovery pay for the travel expenses of his return to his post of duty. If the officer or employee is too ill to travel unattended, the Director may also pay the travel expenses of an attendant;

Sec. 4 (5)(c) In the event of illness or injury requiring hospitalization of an officer or full time employee of the Agency, not the result of vicious habits, intemperance, or misconduct on his part, incurred in the line of duty while such person is assigned abroad, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

[Explanatory note for sec. 4(5)(C)]

Explanation: This provision amends existing law pertaining to medical treatment of Agency officers and employees and extends medical treatment to their dependents. The benefits provided are the same as those set forth in section 941(a) and (b) of the Foreign Service Act. The amended language affords protection where the illness or injury requires hospitalization or "similar treatment" since at a number of posts hospital facilities are lacking or are so inadequate that the individual is assured better care by treatment at home.

Proposed Legislation

Existing Legislation

(6) In section 5, add the following new paragraphs (g) and (h):

"(g) Upon the termination of the assignment of an employee appointed from another Government agency without a break in service for duty with the Agency for a specific period of time agreed upon by both agencies, such person will be entitled to reemployment in such other Government agency in the position occupied at the time of assignment, or in a position of comparable salary, or, at the volition of the other Government Agency, to a position of higher salary. Upon reemployment, the employee shall receive the within-grade salary advancements and other salary adjustments he would have been entitled to receive had he remained in the position in which he was employed prior to assignment to the Agency."

None

Explanation: This section provides reemployment rights with the former employing agency for individuals who transfer to the Central Intelligence Agency with the consent of the former employer. It is similar in substance to authority provided by section 528 of the Foreign Service Act and section 625(b) of the Act for International Development of 1961.

"(h) Settle and pay, whenever the Director determines that payment will further the purposes of this Act, without regard to any other provisions of law and under such regulations as the Director may prescribe, in an amount not exceeding \$10,000, any claim against the United States for loss of or damage to real or personal property

None

Proposed Legislation

Existing Legislation

[Section 5(h) continued]

(including loss of occupancy or use thereof), belonging to, or for personal injury or death of, any person not a citizen or resident of the United States, where such claim arises abroad out of the act or omission of any Agency employee or out of the act or omission of any person acting on behalf of the Agency but only if such claim is presented in writing to the Agency activity involved within one year after it accrues."

Explanation: This section authorizes the payment of meritorious claims arising in foreign countries from the acts or omissions of individuals engaged in Agency activities. The authority as outlined is similar to that granted the State Department for the settlement of claims up to \$2,500 under subsection 2(f) of P.L. 84-885; the authority of the military departments for settlement of claims up to \$15,000 as set forth in section 2734 of title 10, U.S.C.; and the authority for payment of claims up to \$10,000 set forth at section 10(b) of the Peace Corps Act, P.L. 87-293. The Federal Tort Claims Act does not apply in foreign countries and in keeping therewith separate authority for the settlement of such claims in overseas areas is required.

(7) Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4) ) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021), or as a disability annuity payable under Title II of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403(a) et seq.)."

None

Explanation: This section amends paragraph 4 of section 104(a) of the Internal Revenue Code of 1954 to exempt disability annuities under Title II of this Act from Federal income tax. This is in keeping with provisions relating to disability annuities payable under the authorities set forth in section 104(a) of the Internal Revenue Code.

Proposed Legislation

Existing Legislation

(8) Renumber section 7, to read section 8. Renumber section 8 to read section 9, APPROPRIATIONS. Renumber section 9 to read section 10, SEPARABILITY OF PROVISIONS. Renumber section 10 to read section 11, SHORT TITLE. Add a new section 7 as follows:

None

"7(a) For the benefit of or for use in connection with the Agency or for the benefit or welfare of employees of the Agency or their dependents, the Director is authorized notwithstanding any other provisions of law;

(1) to receive gifts to the Agency and in his discretion to accept, receive, hold, administer, and expend or dispose of such gifts and bequests of property from individuals or others;

(2) to disburse gifts, bequests of money, interest, profits, income, or proceeds from sales of other property received as gifts in accordance with the terms and conditions of the acceptance of any particular gift or bequest;

(3) to invest, reinvest or retain investments of the money, property or securities and the interest, profits, or proceeds accruing from such money, property or securities; Provided, however, that the Director is not authorized, as a consequence of gifts or bequests of money, property or securities to the Agency, to engage in any business or to exercise any voting privilege which may be incidental to securities in his hands received as a gift to the Agency, nor shall the Director make any investments other than securities of the United States or other securities guaranteed as to principal and interest by the United States, except that he may make any investments directly authorized by the instrument of gift, and may retain any investments accepted by him; provided further, that gifts, bequests of money, or proceeds from other property are not utilized for the conduct of activities by the Agency, as authorized in 50 U.S.C. 403(d) et seq. through the augmentation or in lieu of appropriations by the United States Congress; and provided further, that the funds represented by the gifts, bequests of money or proceeds from other property are not commingled with funds appropriated by the United States Congress.



Proposed Legislation

Existing Legislation

/Section (8) continued/

"(b) For the purpose of Federal income, estate and gift taxes, gifts and bequests accepted by the Director shall be deemed to be a gift or bequest to or for the use of the United States."

None

Explanation: This section permits the acceptance of gifts and bequests to the Agency whether conditional or unconditional and allows the Director to administer them in accordance with the terms and conditions of the particular gift or bequest. It also allows the acceptance of gifts for the purpose of furthering the welfare of employees and their families. Normal exemption for the value of such gifts from gross income for Federal tax purposes is authorized.

Authority for the acceptance of gifts and exemption for tax purposes of the value thereof will authorize acceptance of gifts such as donations to the library or to an historical intelligence collection and the acceptance of gifts and bequests directed for the benefit of employees or their dependents, such as educational scholarships for deserving children of Agency personnel.

Section 3

Insert the heading "TITLE I -- DEFINITIONS AND GENERAL AUTHORITIES" before the Section title, "DEFINITIONS," of section 1 of the Central Intelligence Agency Act of 1949, as amended.

None

Explanation: This section provides for technical adjustment in headings and section numbers in accordance with the provisions enumerated in this Act.

Section 4. The Central Intelligence Agency Act of 1949, as amended, is further amended by the addition of Title II as follows:

None

"TITLE II

"THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Explanation: Except for such changes as are necessary to reflect terminology applicable to the Central Intelligence Agency, the proposed provisions are substantively the same as, or identical with, the corresponding provisions of the Foreign Service Act of 1946, as amended. The corresponding section number under the Foreign Service Act of 1946, as amended, is furnished at the end of each explanatory statement below (for example, "Section 801, FSA").

"PART A -- ESTABLISHMENT OF SYSTEM

"Rules and Regulations

"Sec. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System, referred to hereafter as the System.

"(b) The Director shall administer the System in accordance with such rules and regulations and with the principles established by this Act."

Explanation: This section gives the Director of Central Intelligence the authority necessary to establish and maintain a retirement system and to prescribe rules and regulations governing its administration. (Section 801, FSA)

"Establishment and Maintenance of Fund

"Sec. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter in this title as the Fund."

Explanation: This section provides for establishment and for the maintenance of the Central Intelligence Agency Retirement Fund by the Director. (Section 802, FSA; and 43 Stat. 144)

"Participants

"Sec. 203. The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the System."

Explanation: This section necessarily deviates from the comparable provision of the Foreign Service Act of 1946, as amended, since Foreign Service Officers are automatically covered by virtue of their appointments under the Foreign Service Act. However, as indicated in the statement of justification, all Agency employees will not serve under conditions which will warrant other than normal retirement considerations. Those who are to be designated as participants pursuant to this section will undergo a rigid selection process. (Section 803, FSA)

"Annuitants

"Sec. 204. (a) Annuitants shall be persons who are receiving annuities from the Fund and all persons, including surviving wives and husbands, widows, dependent widowers, children and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

"(b) When used in this title the term --

"(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by such marriage.

[Sec. 204 (b) continued]

"(2) 'Dependent widower' means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by such marriage, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

"(3) 'Child' means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support. In addition to the offspring of the participant and his or her spouse the term includes (a) an adopted child, and (b) a step-child or recognized natural child who received more than one-half of his support from the participant."

Explanation: This section defines annuitants who may be eligible for benefits under the retirement system. (Section 804, FSA)

#### "PART B -- COMPULSORY CONTRIBUTIONS

"Sec. 211. (a) Six and one-half per centum of the basic salary received by each participant shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund, shall be deposited by the Agency to the credit of the Fund.

"(b) Each participant shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary."

Explanation: This section provides for contributions to the retirement fund by the employee and by the Agency at the rate of  $6\frac{1}{2}$  per cent of basic salary, which is the same under both the Foreign Service retirement system and the civil service retirement system. (Section 811, FSA)

#### "PART C -- COMPUTATION OF ANNUITIES

"Sec. 221. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the Fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251, 252 and 253. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

"(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death and

/Sec. 221 (b) continued/

terminating upon the death of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 50 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by  $2\frac{1}{2}$  per centum of any amount up to \$2,400 he specifies as the base for the survivor benefit plus 10 per centum of any amount over \$2,400 so specified.

"(c)(1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$600; or (iii) \$1,800 divided by the number of children.

"(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$720; or (iii) \$2,160 divided by the number of children.

"(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

"(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reasons of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

"(f) At the time of retirement an unmarried participant may elect to receive a reduced annuity and to provide for an annuity equal to 50 per centum of the reduced annuity payable after his or her death to a beneficiary whose name shall be designated in writing to the Director. The annuity payable to a participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed 40 per centum. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Director. The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable."

Explanation: This section provides for the computation of annuities to be paid to a participant or, upon his death, to a surviving wife, husband, and children or, upon death of an unmarried participant, to a beneficiary named by him.

"PART D -- BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

"Retirement for Disability or Incapacity --  
Physical Examination -- Recovery

"Sec. 231. (a) Any participant who has five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the System at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his grade in the Agency.

"(b) In each case, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade in the Agency. If the Director determines, on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

"(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered to have been separated within the meaning of section 234 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions.

[Sec. 231 continued]

"(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended, covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any person to receive an annuity under this Act by reason of his own services, and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of any other person.

"(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of September 7, 1916, as amended, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such computed payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for Reimbursement to such Fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding."

Explanation: This section makes provision for retirement of employees who become disabled or incapacitated for duty. It establishes procedures for physical examinations and subsequent return to duty when an annuitant has recovered to the extent that he can return to duty. The section further bars payment of a disability annuity if the employee is given an award of compensation for disability under the Federal Employees' Compensation Act. (Section 831, FSA)

#### "Death in Service

"Sec. 232.(a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, his contributions to the Fund, with interest at the rates prescribed in sections 241(a) and 281(a), shall be paid in the order of precedence shown in section 241(b).

"(b) If a participant, who has at least five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a widow or a dependent widower, as defined in section 204, such widow or

[Sec. 232 (b) continued]

dependent widower shall be entitled to an annuity equal to 50 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and of section 221(a). The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

"(c) If a participant who has at least five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(1). The child's annuity shall begin and be terminated in accordance with the provisions of section 221(e). Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though such wife or husband or child had not survived the participant.

"(d) If a participant who has at least five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(2). The child's annuity shall begin and terminate in accordance with the provisions of section 221(e). Upon termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though that child had never been entitled to the benefit.

"(e) If, at the time of his or her death, the participant had less than twenty years of service credit toward retirement under the System, the annuities payable in accordance with paragraph (b) of this section shall be computed in accordance with the provisions of section 221 on the assumption he or she has had twenty years of service, but the additional service credit that may accrue to a deceased participant under this provision shall in no case exceed the difference between his or her age on the date of death and the mandatory retirement age applicable to his or her grade in the Agency. In all cases arising under paragraphs (b), (c), (d), or (e) of this section, it shall be assumed that the deceased participant was qualified for retirement on the date of his death."

Explanation: This section provides for payment of an annuity to the survivor(s) of an employee who dies while in active service. If no annuity is payable, this section provides for payment of his contributions plus interest to the surviving spouse or children, or to his estate, or to a named beneficiary in a prescribed order of precedence. (Section 832, FSA)

"Voluntary Retirement

"Sec. 233. Any participant in the System who is at least fifty years of age and has rendered twenty years of service, including service within the meaning of section 253, may on his own application and with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of section 221."

Explanation: This section provides for voluntary retirement of an officer when he reaches age 50 and has at least 20 years of service. (Section 636, FSA)

"Discontinued Service Retirement

"Sec. 234. (a) Any participant who separates from the Agency after obtaining at least five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), may, upon separation from the Agency or at any time prior to becoming eligible for an annuity, elect to have his contributions to the Fund returned to him in accordance with the provisions of section 241, or (except in cases where the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States) to leave his contributions in the Fund and receive an annuity, computed as prescribed in section 221, commencing at the age of sixty years.

"(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section to receive a deferred annuity commencing at the age of sixty dies before reaching the age of sixty his contributions to the Fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

"(c) The Director may in his discretion retire participants in grade GS-14 and above to promote the efficiency of the Agency and they shall receive retirement benefits in accordance with the provisions of section 221.

"(d) The Director may in his discretion retire participants in grade GS-13 and below to promote the efficiency of the Agency and each such officer shall receive--

"(1) one-twelfth of a year's salary at his then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his then current salary rate, payable without interest, from the Fund, in three equal installments on the 1st day of January following the officer's retirement and on the two anniversaries of this date immediately following: Provided, That in special cases, the Director may in his discretion accelerate or combine the installments; and

"(2) a refund of the contributions made to the Fund, with interest as provided in section 241(a), except that in lieu of such refund such officer, if he has at least five years of service credit toward retirement under the System, excluding military or naval service that is credited in accordance



[Sec. 234(d)(2) continued]

with the provisions of section 251 or 252(a), may elect to receive retirement benefits on reaching the age of sixty in accordance with the provisions of section 221. In the event that an officer who was separated from grade GS-13 or GS-12 and who has elected to receive retirement benefits dies before reaching the age of sixty, his death shall be considered a death in service within the meaning of section 232. In the event that an officer who was separated from grade GS-11 or below and who has elected to receive retirement benefits dies before reaching the age of sixty, the total amount of his contributions made to the Fund, with interest as provided in section 241(a), shall be paid in accordance with the provisions of section 241(b).

"(e) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203) or the provisions of any other law, an Agency officer who is retired in accordance with the provisions of section 234(d) shall have the right to assign to any person or corporation the whole or any part of the benefits receivable by him pursuant to paragraph (d)(1) of this section."

Explanation: This section provides for the involuntary retirement of employees by the Director in order to promote the efficiency of the Agency. The comparable provisions of the FSA relate to "selection-out" of officers who fail of promotion or who do not meet required standards of performance. Retirement benefits provided for employees in GS-14 and above are the same as those provided for Foreign Service Officers in Classes 1, 2, and 3. Retirement benefits provided for employees in GS-13 and below are the same as those provided for Foreign Service Officers in Class 4 and below. The linkage levels established in the Federal Salary Reform Act of 1962 to provide comparability for pay purposes have been used to relate Foreign Service classes to the Agency's General Schedule grades.

This section also provides for the refund of an employee's contributions if he leaves the service without qualifying for an immediate or deferred annuity.

Comparable sections of FSA are as follows:

<u>CIA System</u>	<u>Foreign Service System</u>
Sec. 234(a)(Refund of Contributions)	Sec. 834(a) and 637(b)
Sec. 234(b)(Disposition of contributions upon death prior to receipt of deferred annuity)	Sec. 834(b)
Sec. 234(c)(Involuntary retirement--employees GS-14 and above)	Sec. 519; 633(b); 634(a)
Sec. 234(d)(Involuntary retirement--employees GS-13 and below); (severance pay)	Sec. 633(b); 634(b)
Sec. 234(e)(Assignment of benefits)	Sec. 634(c)

"Mandatory Retirement for Age

"Sec. 235. (a) Any participant in the System in grade GS-18 or above, shall upon reaching the age of sixty-five, be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years.

"(b) Any participant in the System, other than in grade GS-18 or above, shall upon reaching the age of sixty, be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years."

Explanation: This section provides for the mandatory retirement of employees in GS-18 or above upon reaching age 65 and of other employees upon reaching age 60. As in the preceding section, conversion to Agency grades was achieved by application of the linkage levels established in the Federal Salary Reform Act of 1962. (Sections 631 and 632, FSA.)

"PART E -- DISPOSITION OF CONTRIBUTIONS AND INTEREST  
IN EXCESS OF BENEFITS RECEIVED

"Sec. 241. (a) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 281, shall be returned to him.

"(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at 4 per centum per annum compounded annually as is provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

"(1) To the beneficiary or beneficiaries designated by the retired participant in writing to the Director;

"(2) If there be no such beneficiary, to the surviving wife or husband of such participant;

"(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

"(4) If none of the above, to the parents of such participant or the survivor of them;

"(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

"(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

"(c) No payment shall be made pursuant to paragraph (b)(6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant."

Explanation: This section provides for the refund of contributions plus interest at 4% to an employee who is separated without attaining eligibility for an annuity. The section further provides for the disposition of contributions plus interest at 4% in excess of annuity benefits to a surviving spouse, children, parents, or estate of a deceased employee or to his named beneficiary in the same order of precedence as has been established under the Foreign Service and the civil service retirement systems. (Section 841, FSA)

#### "PART F -- PERIOD FOR SERVICE FOR ANNUITIES

##### "Computation of Length of Service

"Sec. 251. For the purposes of this title, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended, and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States."

Explanation: This section provides that the period of service of a participant under this system shall begin as of the date he becomes a participant but excludes periods of separation from the Agency or leaves of absence in excess of six months except when such leave is during a period when the participant is receiving benefits under the Federal Employees' Compensation Act (for illness or injury incurred in the performance of duty) or when such leave is for military service. (Section 851, FSA)

"Prior Service Credit

"Sec. 252. (a) A participant may, subject to the provisions of this section, include in his period of service--

"(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

"(2) active and honorable military or naval service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States.

"(b) A person may obtain prior civilian service credit in accordance with the provisions of paragraph (a)(1) of this section by making a special contribution to the Fund equal to 5 per centum of his basic annual salary for each year of service for which credit is sought prior to November 8, 1960, and at  $6\frac{1}{2}$  per centum thereafter with interest compounded annually at 4 per centum per annum to the date of payment. Any such person may, under such conditions as may be determined in each instance by the Director, pay such special contributions in installments.

"(c)(1) If an officer or employee under some other Government retirement system becomes a participant in the System by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the Fund effective as of the date such officer or employee becomes a participant in the System. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the System.

"(2) No officer or employee, whose contributions are transferred to the Fund in accordance with the provisions of paragraph (c)(1) of this section shall be required to make contributions in addition to those transferred, for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such officer or employee on account of contributions made during any period to the other Government retirement fund, at a higher rate than that fixed by section 211 of this Act for contributions to the Fund.

"(3) No officer or employee, whose contributions are transferred to the Fund in accordance with the provisions of paragraph (c)(1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the Fund in accordance with the provisions of paragraph (b) of this section.

[Sec. 252 continued]

"(d) No participant may obtain prior civilian service credit toward retirement under the System for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

"(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a)(2) of this section by applying for it to the Director prior to retirement or separation from the Agency. However, in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or is awarded under chapter 67 of title 10 of the United States Code, the period of such military or naval service shall be included. No contributions to the Fund shall be required in connection with military or naval service credited to a participant in accordance with the provisions of paragraph (a)(2) of this section."

Explanation: This section provides for credit under the retirement system of previous civilian and military service and for the transfer of an individual's contributions from other Government retirement systems to the Central Intelligence Agency Retirement and Disability Fund. (Section 852, FSA)

#### "Credit for Service at Unhealthful Posts

"Sec. 253. The Director may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts, and each year of duty at such posts inclusive of regular leaves of absence, of participants hereafter retired, shall be counted as one year and a half, and so on in like proportion in reckoning the length of service for the purpose of retirement, fractional months being considered as full months in computing such service, but no such extra credit for service at such unhealthful posts shall be credited to any participant who shall have been paid a salary differential for such service."

Explanation: This section provides extra credit toward retirement for service at unhealthful posts. (Section 853, FSA)

#### "Credit for Service While on Military Leave

"Sec. 254. Contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States."

Explanation: This section waives any requirement for contributions to the Fund during leave of absence for military or naval service. (Section 854, FSA)

"PART G -- MONEYS

"Estimate of Appropriations Needed

"Sec. 261. The Director shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall cause to be made actuarial valuations of such funds at intervals of five years, or oftener if deemed necessary by him."

Explanation: This section provides for estimates of annual appropriations required to be made to the Fund and for actuarial valuation of the Fund at least every five years. It is identical with section 861, FSA, except that there has been deleted the authorization to expend money for administering the program from the Fund since funds required for such purposes would be provided by annual appropriations.

"Investment of Moneys in the Fund

"Sec. 262. The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the Fund as in his judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances, and the income derived from such investments shall constitute a part of such Fund."

Explanation: This section provides necessary authority for the Director to invest funds which are not immediately required and to deposit the income produced by such investment to the Fund. (Section 863, FSA)

"Attachment of Moneys

"Sec. 263. None of the moneys mentioned in this title shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 234(e)."

Explanation: This section provides necessary protection to moneys in the Fund to preserve them for the payment of annuities, cash benefits, refunds, and allowances as provided under the proposed retirement system. (Section 864, FSA)

"PART H -- ANNUITANTS RECALLED, REINSTATED OR REAPPOINTED IN

THE AGENCY OR REEMPLOYED IN THE GOVERNMENT

"Recall

"Sec. 271. (a) The Director may recall any annuitant to duty in the Agency whenever he shall determine such recall is in the public interest.

"(b) Any annuitant recalled to duty in the Agency or reinstated or reappointed in accordance with the provisions of section 231(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the Fund in accordance with the provisions of section 211. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of section 221."

Explanatory note for Sec. 271.)

Explanation: This section provides for the recall to active service of an annuitant when necessary in the public interest. It further provides that such a recalled annuitant shall be entitled to the full salary of the grade in which he serves upon recall and for recomputation of his annuity upon completion of such service. (Sections 520(b) and 871, FSA)

"Reemployment Compensation

"Sec. 272. (a) Notwithstanding any other provision of law, any officer or employee of the Agency, who has retired under this Act, as amended, and is receiving an annuity pursuant thereto, and who is reemployed in the Federal Government service in any appointive position either on a part-time or full-time basis, shall be entitled to receive the salary of the position in which he is serving plus so much of his annuity payable under this Act, as amended, which when combined with such salary does not exceed during any calendar year the basic salary such officer or employee was entitled to receive on the date of his retirement from the Agency. Any such reemployed officer or employee who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this paragraph shall be entitled to such salary in lieu of benefits hereunder.

"(b) When any such retired officer or employee of the Agency is reemployed, the employer shall send a notice to the Agency of such reemployment together with all pertinent information relating thereto, and shall pay directly to such officer or employee the salary of the position in which he is serving.

"(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed officer or employee, or from any other moneys, including his annuity, payable in accordance with the provisions of this title."

Explanation: This section provides that an annuitant who is reemployed in the Federal service in an appointive position is entitled to retain the salary of his position plus his annuity up to a combined amount which does not exceed the basic salary of the grade which he held upon retirement. In the event of an overpayment, the amount of such overpayment may be withheld from either the salary or the annuity payable to the reemployed annuitant. (Section 872, FSA)

"Reemployment

"Sec. 273. Notwithstanding the provisions of title 5, United States Code, section 62, and title 5, United States Code, section 715a, an Agency officer or employee retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer."

Explanation: This section authorizes the reemployment in Government of an employee retired under the Agency system. This authority is similar to that applicable to civil service retirees and is identical with section 520(c) FSA.

"PART I -- VOLUNTARY CONTRIBUTIONS

"Sec. 281.(a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be--

"(1) returned to him in lump sum; or

"(2) used to purchase an additional life annuity; or

"(3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or

"(4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.

"(b) The benefits provided by subparagraphs (2), (3), or (4) or paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

"(c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

"(d) Any benefits payable to an officer or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this title."

Explanation: This section provides for an employee to make voluntary contributions to the Fund if he wishes to do so in order to increase the annuity to be paid to him or to a survivor upon his retirement or death. Similar provision is contained in both the Foreign Service and the civil service retirement systems. (Section 881, FSA)